From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Monday, August 22, 2005 7:44 PM
To: Brian Wallace
Cc: Darren Sommers
Subject: Re 180 Solutions

Hi Brian,

We have had a chance to consider the issues you have raised. Our response is as follows:

(1) In respect of slow system performance, this has come from reports from our user base, but we will continue to monitor your software.

(2) Damage to reputation/misleading advertising - we still see example of rogue and misleading advertising on your network. See an attached ad which covers the Symantec site and which uses their website's colors (see symantec2.jpg). This was detected about 1-2 weeks ago. While its good to see that you have banned many rogue advertisers on your network, we still see examples of misleading conduct such as this.

We also have attached another ad from the same company which use a different trade dress to Symantec (see symantec3.jpg), however, the problem we have with this ad is that the company does not identify themselves and does not indicate to the end user on their advertisement that they are in no way associated with Symantec. Again, this has the potential to mislead consumers.

Although its not our job to police your network, while we see examples of this type of advertising over anti-spyware/anti-virus company websites (and websites in general), your software will continue to score points in our threat matrix.

Further, the "brought to you by 180 Solutions" message in the title bar is in our view not enough to indicate to the End User:

(a) That the pop up window is an ad.

(b) That the pop up window has no association with the source website.

Many end users will not take notice of the title bar. Many that do will not know who 180 solutions are (while I am sure you are working on it, in our view you do not have the brand recognition of say Microsoft or Google). I'm having trouble capturing the screen shot for some reason, but if you visit us.cnn.com and get a stock quotation, say be entering "ISSX" in the list box for stocks, you will get the quotation plus usually two ads with "Advertisement – Microsoft Internet Explorer" in the toolbar. The source isn't identified but it doesn't take long for most users to discover that if they ask CNN for something more than the standard news items then they get these pop-up ads to pay for it. I think the title bar used to read "Ad – CNN".

On this basis, what we would like to see is better disclosure to end users that the pop up window is an advertisement and not associated in any way with the source website. This could be done (for example) by asking the end user if they want to see an advertisement for a comparative product before generating the window and maybe at the same time, explaining that the comparative product has no association with the source website. An alternative may be to

EXHIBIT 1

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Dockets.Justia.com

have a window within a window, where the outer window provides sufficient information to consumers for them to be aware that the advertisement is generated by 180 Solutions, has no association with the source website and maybe offers a method for uninstalling your software.

Another alternative is to do what CNN do - which is disclose in the title bar that the window is in fact an advertisement (see attached example).

(3) Contravention of policies - as you say, you can't stop crime. While we acknowledge that you are taking good steps to enforce your policies (I note some press reports that you are suing rogue distributors – that's good to see), end users still need protection against those rogues out there which escape your net.

(4) Displaying EULA's/proper disclosure - again, this is a case of policy versus what happens in the wild. While we understand your policy requires proper disclosure, we have seen examples where the description of 180's products functionality was misleading and/or where the EULA may not have been disclosed.

I think the issue is now where to from here. While we appreciate the clarification of the functionality of your software, information from the software vendor is only some of the detail we take into account when performing an assessment. What is more important to us is how we observe your software to function out in the wild - in other words, how we see it as being delivered and installed and operated on an average end users machine.

Unfortunately while you have gone to good lengths to explain the functionality of your software to us, we still see contradictory behavior in examples which we download. While we will continue to review materials/explanations you provide to us, we will however continue to focus more on examples of your software which we can obtain from various sources on the web as the basis for our assessment.

What we propose to move forward is that we continue to test and monitor your software on a more regular basis to ensure that our threat matrix assessment is accurate. However, at the same time, we would like to call this debate to an end as we believe we now understand your view on a number of points which we will take into account when performing our next assessment (which we will do in the coming weeks). We do however ask that you keep us advised of any future product releases and upgrades so that we can make sure our assessments are up to date.

Best Regards,
Jim Meem

From: Brian Wallace [mailto:bwallace@zango.com]
Sent: Thursday, 15 September 2005 1:08 PM
To: Jim Meem; Darren Sommers
Subject: Re 180 Solutions

Jim/Darren,

Not sure if the news made its way down under but we have released a new version of our client with a new technology (which we refer to as S3).

What's new since last we spoke:

1. We've added a 'More about Zango' link to the title bar of our ads- if a user clicks it they are brought to a page with information about the program as well as uninstall instructions.
2. We've stopped advertising for any applications on Eric's list of rogue products.
3. We added in the Notice screen when downloading the client only (previously there was only a link) www.zango.com/getzango
4. Phase One of S3 will ensure that all users are shown our Notice/EULA prior to download- thwarting the rogue distributions (this was only a problem with 180sA)- Phase Two will add in a technological police force so we are better able to monitor our distributors and re-message specific people IF somehow we find a channel to be compromised. This remessage will not be in the form of an ad, but will be a windows dialog box that explains the situation and offers them a one-click uninstall if they don't want to keep the program.
5. Also, all new users are shown a second message from us within 72 hours and then again once every 90 days, see links below:
http://lp.zango.com/HtmlPages/zango/zango_01.htm
http://lp.zango.com/HtmlPages/180sa/180sa_09.htm

As testing will show you, we (theoretically) should no longer receive points on your threat matrix for:

Warning before installation (8)

Targets anti-spyware products and/or websites (10)

Please let me know when you've completed your review and if you have any questions.

I hope all is well,
Brian

Brian Wallace
Public Affairs
180solutions
E: bwallace@180solutions.com <mailto:bwallace@metricsdirect.com>
P: 425.279.1290| F: 425.279.1199
www.180solutions.com <http://www.metricsdirect.com/>

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Wednesday, September 14, 2005 8:34 PM
To: Brian Wallace; Jim Meem
Subject: RE: Re 180 Solutions

Thanks Brian. I did read this, but I also read that your distributors can still distribute the old version until the end of the year. Is this true?

Darren Sommers
General Counsel
PC TOOLS Pty Ltd
http://www.pctools.com

From: Brian Wallace [mailto:bwallace@zango.com]
Sent: Fri 9/16/2005 2:43 AM
To: Darren Sommers; Jim Meem
Cc: Kevin Osborn
Subject: RE: Re 180 Solutions

Darren,

As of last week, all NEW distributors that sign up must distribute the new version of the client. Any existing distributors have until the end of the year to update their distribution.

I should point out, however that this affects 180search Assistant primarily. As we've always controlled the distribution of Zango, there isn't the problem with rogue distributors. The only 2 issues (that I'm aware) PCTools had with Zango was that the EULA didn't display when downloading the client only (from www.zango.com/getzango)- which has now been fixed, and the advertising of rogue software- which has also been addressed.

The assessment we've been working off was for Zango. Although, I'd like to have an assessment done on 180sA as well- new version can be accessed from www.180searchassistant.com/install.aspx. I know your team is able to separate product versions (you did this with Zango) so perhaps there can be a new entry created for '180search Assistant After September 2005'.

FYI- I'm attaching a doc with screenshots of the new install process.

Thanks guys for your work on this.

-Brian
Brian Wallace
Public Affairs
180solutions

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Thursday, September 15, 2005 3:47 PM
To: Brian Wallace; Jim Meem
Cc: Kevin Osborn
Subject: RE: Re 180 Solutions

Thanks Brian. Its friday here and I have an all day seminar to attend today, but I will pick this up with Jim next week.

Darren Sommers
General Counsel
PC TOOLS Pty Ltd
http://www.pctools.com

From: Kevin Osborn [mailto:kosborn@180solutions.com]
Sent: Friday, 23 September 2005 10:57 AM
To: Darren Sommers
Cc: Brian Wallace; Jim Meem
Subject: FW: Re 180 Solutions
Importance: High

Darren: I just checked with Brian Wallace and he confirmed that he hadn't heard anything back yet from you guys. We've made the necessary changes to Zango to facilitate and justify the requested reduction on your threat matrix. Will you please provide an update as to where you're at in re-testing Zango by end of day Friday (your time)? As you will appreciate, the unfairly elevated threat matrix is not helping us and, in fact, is costing us money.

Thank you for your continued attention to this matter. We look forward to hearing from you.

Kevin Osborn
Senior Litigation Attorney
Law and Corporate Affairs
p: 425.279.1459 || c: 425.785.0749

-----Original Message-----
From: Kevin Osborn
Sent: Friday, September 23, 2005 1:11 PM
To: Brian Wallace
Subject: RE: RE: Re 180 Solutions

I hear you. Maybe they ought to give us a clean slate now and, after appropriate communication with us (of course), populate a new threat matrix upon conclusion of their month-long safari test.

Kevin Osborn
Senior Litigation Attorney
Law and Corporate Affairs
p: 425.279.1459 || c: 425.785.0749

-----Original Message-----
From: Brian Wallace
Sent: Friday, September 23, 2005 9:33 AM
To: Kevin Osborn
Subject: RE: RE: Re 180 Solutions

Lemme think about it... I'm not enthused about waiting that long.

Brian Wallace
Public Affairs
180solutions
E: bwallace@180solutions.com
P: 425.279.1290| F: 425.279.1199
www.180solutions.com

-----Original Message-----
From: Kevin Osborn
Sent: Thursday, September 22, 2005 7:58 PM
To: Brian Wallace
Subject: FW: RE: Re 180 Solutions

Is this going to cut it?

-----Original Message-----
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Thu Sep 22 18:20:05 2005
To: Kevin Osborn
Cc: Brian Wallace; Jim Meem
Subject: RE: Re 180 Solutions

Kevin,

I just spoke to Jim. His team will be observing your software in the wild over the next month to see whats changed. This should give us hopefully enough time to evaluate how it is being distributed and used. Please check back with us towards end of October if you haven't heard from us.

Thanks,
Darren Sommers
General Counsel
PC TOOLS Pty Ltd
http://www.pctools.com

From: Brian Wallace [mailto:bwallace@zango.com]
Sent: Monday, 26 September 2005 4:02 PM
To: Darren Sommers; Jim Meem
Cc: Kevin Osborn
Subject: RE: Re 180 Solutions

Darren/Jim,

Thank you again for your continued willingness to work with us. I agree that you need to see the product out in the wild, but think that waiting another month for testing is too much time.

When I initially contacted Jim back in February, he was quick to downgrade both programs (even though theg were technologically inferior to what is being distributed now) and said that he would keep an eye on them for 3 months at which time they would be removed altogether. There's no reason why the same protocol shouldn't be applied here as well. The new program has been 'out in the wild' for over 2 weeks, and the problems with Zango were more cosmetic than anything else. The changes you recommended to us have been implemented and the threat level should be downgraded.

Computer Associates, for example, delisted programs temporarily pending the results of their test. I think something similar in this case would be fair. We've been working together long enough and we've listened to you at every turn.

I propose that you create new entries for "Zango/180sA after Sep 05"- your team has proven capable of splitting out programs by product version, we'll even help if need be by providing file names and regkeys and whatnot. Mark them as info only, and continue to test them and watch them in the wild. There should be no confusion for the consumer as to how they got the programs, what the programs do, or how to get rid of them if they no longer want them.

If you don't feel like we're keeping up our end of the bargain, raise the level back up and we're back to square one with you guys. Obviously, that lands us with egg on our face and isn't what we want at all.

How do you feel about this?

-Brian

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Sunday, September 25, 2005 11:11 PM
To: Brian Wallace; Jim Meem
Cc: Kevin Osborn
Subject: RE: Re 180 Solutions

Hi Brian,

We have been burned by companies in the past telling us that their software had changed, when in fact it hadn't. We made the mistake of lowering them to info, leaving it there for 3 months and then realising that the consumer was not properly protected. On this basis, we don't temporarily lower the threat rating of software during its evaluation period - we keep it as is and retest it to see if it should be delisted or re-rated.

The one month period is necessary as we really need to see how it is distributed and how it effects end users etc... If anything, we probably should take more than a month so we are being more generous than what we usually do.

As for listing your new product separately to the old product - I'll defer to Jim on that point as I am not sure what we are capable of doing technically there. Jim, could you please advise if this is possible?

Darren Sommers
General Counsel

PC TOOLS Pty Ltd
http://www.pctools.com

From: Brian Wallace [mailto:bwallace@zango.com]
Sent: Tue 9/27/2005 5:42 AM
To: Darren Sommers; Jim Meem
Cc: Kevin Osborn; Cory Magnus
Subject: RE: Re 180 Solutions

Darren,

I understand your position in protecting your company and your customers. Hopefully you understand our position as well as every day we are in your scan there is a financial impact on our business.

If you feel a month is how long you need to adequately observe the latest builds, then can we meet in the middle and say Oct 6? As you recall, back on 8/22 you sent us an email with the following statement:

What we propose to move forward is that we continue to test and monitor your software on a more regular basis to ensure that our threat matrix assessment is accurate. However, at the same time, we would like to call this debate to an end as we believe we now understand your view on a number of points which we will take into account when performing our next assessment (which we will do in the coming weeks). We do however ask that you keep us advised of any future product releases and upgrades so that we can make sure our assessments are up to date.

I replied on 8/23 and said that was fine and that the build that would address the aforementioned concerns would be released on 9/6, giving you the advanced notice you requested. As you are requiring a month of observation time, October 6 would have it 'out in the wild' for that timeframe.

Thoughts?

Brian

FYI- I'm also copying Cory Magnus on this email as he will be the main point of contact after Oct 1. He's been involved since Feb and is up to speed on our situation so there's no need to 'catch him up'...

Brian Wallace
Public Affairs
180solutions

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Monday, September 26, 2005 6:48 PM
To: Brian Wallace; Jim Meem
Cc: Kevin Osborn; Cory Magnus
Subject: RE: Re 180 Solutions

Hi Brian,

The one month period is a month of our monitoring which really began in the last week. It is not one month from the date of my email. This is not a contract where we promise an exact "month" or where we measure a notice period from email to email. Our malware research team has a large workload so its about fitting you in. However, we have given you more attention than other companies who have asked for a review of their software, primarily because of your stated willingness to work with us.

The one month is an approximate period, so we will not promise a fixed date of reply.

However, if we take the month from our original email of 22 September, then I would suggest you check back with us in the second to last week of October. Hopefully MRC will have a better idea then.

Note that the one month period is not a fixed commitment from us. If MRC detect things in the "wild" that are suspect, then we reserve the right to take longer. You should also be aware that we reserve the right to change the classification of software at any time if we see functionality or behaviour which is of concern. We also reserve the right to determine what software we bring to an end users attention.

I also reject any assertion that you are losing money because of us. Spyware Doctor does not remove your software - it is the end user who removes your software. All Spyware Doctor does is tell the end user that your software is installed on their PC and gives them the ability to remove it if they decide to. Remember, its the end user who owns their computer and that person has every right to decide what they have installed on their system and what they remove. Our main driver is end user protection so will do everything to ensure that any malware present on their system is brought to their attention.

In the meantime, I'll ask Jim to liaise with you more on this. I know he is flat out for the next few days and will start looking at your software as soon as possible.

Also, to help us move forward, if you have any whitepapers or relevant information on the functionality changes with your software, please send this through. While we will perform our own assessment, it is always helpful to have your view of the world.

Thanks,

Darren Sommers
General Counsel

From: Cory Magnus
To: Jim Meem;Darren Sommers
Cc: Keven Osbourne
Date: 1 October 2005
Darren / Jim,

As Brian mentioned to you in his earlier email, he's moving on to a new role with 180. It's an exciting opportunity for him to make some significant contributions as to the growth of the company. That said, our work with top scanning application like yours obviously remains a top priority. From this point on, I will serve as your primary contact here at 180solutions. I've been working on the whole spyware / adware issue with 180solutions for quite some time now and I look forward to a continued open dialogue with you. As Brian has likely mentioned to you, we have been making some significant changes to the way our programs work and will continue to make significant changes throughout Q4. We're excited about the future of the company and I look forward to working with you and getting your insight as we continue to improve.

From what I have read in the previous email thread, it looks as if you all are testing our programs and reviewing how they operate in the wild. We appreciate the attention you've given our programs up to this point and I look forward to hearing your thoughts on our current programs. To be clear, I understand that your application exists to inform the user what is on their computer – and I absolutely agree that it is up to the user to decide what stays on their machine. However, I'm also sure that you can understand our concern when our programs are mislabeled as "elevated" risks and "Hijacker(s)". This cannot be considered simply notifying the user what is on their machine, but rather suggesting to them the removal of our app. As Brian mentioned, there is an associated loss of users due to this false labeling labels, and that is why I look forward to working with your team in developing the correct program definitions.

I look forward to your response and to continued dialogue on this issue.

Cory

Cory Magnus
Industry and Government Relations Manager
180solutions.com
From: Cory Magnus [mailto:corym@zango.com]
Sent: Tuesday, 20 December 2005 9:53 AM
To: Simon Clausen; Jim Meem; Darren Sommers; Peter Mackow
Subject: New 180solutions releases for testing

Guys,

As you are aware, 180solutions recently announced the development and initial distribution of our products with a new technology dubbed S3 (Safe and Secure Search). This rollout marks the final step in the S3 initiative, which we consider to be the most significant technological upgrade to our programs.

Key Initiative Features:

- Ensures that every consumer who downloads one of our products does so with full knowledge and informed consent
- Provides a built-in mechanism for consumers to report fraudulent installations of our software through what we call the "Closed Loop System" (CLS)
- Requires every single distribution partner to distribute only the S3 enabled version of our software by January 1, 2006
- Incorporates brand-specific CLSIDs
- Retirement 180search Assistant by the end of the year
- Introduction of our new program, Seckmo Search Assistant

What is the Closed Loop System "CLS"?

The CLS ensures us that our customers are notified and accept the installation of our programs, providing better policing of our installation procedures and removing financial incentive for silent installs.

CLS - Protecting the User

- The CLS makes our notification flag uncopyable and virtually unhackable

- Encrypted BIDS make it possible for us to always trace the distributor of an install

- Ability to remotely force the client to show the notification/acceptance dialog

- Customer support option with assistance for reporting install data

- Notification/Reminder to all users after install (within 72 hrs of install and once every quarter)

What happens if the install is somehow hacked?

In situations where someone is somehow able to hack the install, we will:

- Display opt-in dialog to user and remove programs if they do not opt-in

- Disable the distribution channel spreading hacked version and re-message entire channel. If the users do not opt-in to the program, the program will uninstall

- Assess penalties and legal action as appropriate against the distributor

Legacy Users

- Existing Zango users will be upgraded to the S3 enabled version of our software since (1) Zango distribution has been controlled by 180solutions and (2) proper user consent has been achieved for these installations. This upgrade will be complete by the end of January.
- Existing 180sa users will remain on their current version of the software as of 12/31 and any new installations of 180sa occurring will receive an installation dialog box prompting them to opt into the last version (6.12) of the 180sa software
- Seekmo will only distribute the S3-enabled client

Distribution

100% of our distribution (Zango and Seekmo) will be S3-enabled by January 1 (Seekmo distribution is already completely S3-enabled).

Class IDs

Based on feedback we've received from various scanning applications, we learned that due to the fact that our programs shared CLSIDs, it was difficult to differentiate between them. With this new client version we have made the following update regarding CLSIDs:

- The class identifier (CLSID) of the BHO is unique to each product
- As for ClientAx.dll, changing its CLSID would break backwards compatibility with the all of the existing third-party applications because the CLSID is hard-coded into their programs. Instead of breaking compatibility, we have introduced a new COM object for Zango and another new one for Seekmo (we can further discuss this as necessary)

Other Efforts Included in the S3 Initiative:

- 180solutions has redoubled its efforts this year to crack down on rogue installations, terminating relationships with more than 500 of its nearly 8,000 distribution partners and turning away eight of every 10 new applicants because they cannot abide by our code of conduct

- Proactively working with the FBI and continuing to work closely with law enforcement on other on-going investigations

Download Sites:

Zango
Seekmo

Examples of what it looks like in the wild:

Seekmo

- **pimpslord.com** – Click "register and play NOW" and complete the log-in information. Or, simply go to the log in section on the top right portion of the page, and enter the following:
  1. Pimp Name: ScanningAppTest
  2. Pimp Code: scanningapp

  Once you have entered the log-in information, click on "Click here to win 1000 free turns" and that will lead you to the Seekmo gateway.

Zango

- **dollidol.com** – Navigate to "Personalized Avatar of the Day"
- **coverkingdom.net** – Click on the "Click here to get your free cover" option

What we're hoping to accomplish with this email is to give you enough information regarding our new programs so you can adequately test them, observe the changes, and see our commitment to providing consumers with a positive experience.

Please contact me if you have any questions or need assistance in testing our programs. I will be contacting you in the coming days as a follow-up to this email.

Thanks, and happy holidays…

Cory Magnus
Industry Relations Manager
180solutions.com

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Monday, December 19, 2005 3:00 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Hi Cory,

Thanks for the information. We will process this as soon as possible. However, note that most of our office will be away over the holiday season, so we may not get to properly evaluate your software changes until mid to late January, or possibly early Feb.

If we don't talk in the meantime, I'd like to take this opportunity to wish you a happy holiday season and new year.

Regards,
Darren Sommers
General Counsel

PC TOOLS Pty Ltd
http://www.pctools.com

From: Cory Magnus [mailto:corym@zango.com]
Sent: Wednesday, 25 January 2006 5:59 AM
To: Darren Sommers; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Hi all,

Any better idea as to the expected review timeline for our recently upgraded programs?

Again, just trying to manage expectations on my end.

Thanks,
Cory
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Tuesday, January 24, 2006 6:56 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Hi Cory,

Its very timely that you have emailed us.

We are right in the middle of reviewing the CDT's complaint against 180 which was lodged with the FTC. While we will of course perform our own testing, as you may appreciate we must take into account the evidence set out in their complaint.

I need to discuss this further with Jim, our Malware Research Centre manager. The next 4 days are public holidays here in Australia, so I will try and give you a timeline next week for a response.

Regards,

Darren Sommers
General Counsel

PC TOOLS Pty Ltd
http://www.pctools.com
From: Cory Magnus [mailto:corym@zango.com]

Sent: Thursday, 26 January 2006 10:08 AM
To: Darren Sommers; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Thanks for your quick response.

With regard to the CDT letter to the FTC, it is important to point out that the programs we submitted for your review incorporate our present technology, whereas everything that the CDT letter refers to is associated with older technology. Combating issues such as what the CDT raised is precisely why we developed the S3 technology, and I am confident that after you complete the review of our programs you will see that we have made significant additional strides in securing our programs.

Enjoy the holiday - I look forward to hearing from you next week.

Cory
From: Darren Sommers
Sent: Friday, 27 January 2006 11:00 AM
To: 'Cory Magnus'; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Hi Cory,

I'm not sure if that is correct. It seems that the CDT complaint also refers to conduct observed in January 2006. If you check footnote 5 of the CDT complaint, they say:

5 Although deceptive installs involving iePlugin ceased in October 2005 at http://www.dailywrestling.com, as of January 2006 they were still occurring at several other websites, including http://www.wallpapers4u.com. CDT's brief investigation of this site revealed that a user visiting the site was immediately prompted to install a software bundle that included iePlugin (amid a barrage of pop-ups and prompts). The EULA that was displayed failed to disclose all the software that would be installed in the bundle. The adware payload associated with this iePlugin install was so great that it could cause Internet Explorer to crash, in addition to confusing the user as to which pop-up advertisement was being served by which piece of software. Regardless of whether the user consented to the iePlugin install, he was also prompted to install 180solutions' Zango software after a lapse of approximately five minutes. There was no indication that the second install was at all related to the original site visit. A video of this behavior is available at http://www.spywarewarrior.com/elh/ieplugin.wmv.

Note, we haven't viewed the video as yet but will do so as part of our review.
Regards,

Darren Sommers
General Counsel

PC TOOLS Pty Ltd

http://www.pctools.com
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Tuesday, February 07, 2006 2:22 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Hi Cory,

I thought I would follow up and let you know that we have someone looking at your software at the moment. I won't commit to a time frame for a response at this stage until we have completed our assessment.

Regards,

Darren Sommers
General Counsel

PC TOOLS Pty Ltd
http://www.pctools.com
From: Cory Magnus [mailto:corym@zango.com]
Sent: Tuesday, 14 February 2006 10:04 AM
To: Darren Sommers; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: New 180solutions releases for testing

Any better idea as to an expected timeline on the assessment?

Thanks,

Cory
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Monday, February 13, 2006 10:37 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: [Suspected Spam]RE: New 180solutions releases for testing

Hi Cory,

I'm about to go on paternity leave but will come back to you late next week when I return.

Regards,

Darren Sommers

General Counsel
From: Cory Magnus [mailto:corym@zango.com]
Sent: Tue 02-May-06 12:59 AM
To: Darren Sommers; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: [Suspected Spam]RE: New 180solutions releases for testing

Darren – It's been a while since I've heard from you, so I anted to touch base. We've done some updating of our programs – the latest versions can be found here:
www.zango.com
www.seekmo.com
Thanks Darren – looking forward to hearing your thoughts. I hope the

paternity leave was great!
Cory
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Monday, May 01, 2006 1:20 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: [Suspected Spam]RE: New 180solutions releases for testing

Hi Cory,

As you may recall, one of the issues we had was our understanding that 180 was being investigated by the FTC in relation to its business practices as a result of the complaint from the CDT. What is the status of this? See http://news.zdnet.com/2100-1009_22-6029786.html

I will ask Jim to review your software, but of course any findings from the FTC will have bearing on our own.

Otherwise - fatherhood is good. Highly recommend it (if you haven't been there yet yourself).

Thanks,

Darren Sommers
General Counsel

PC TOOLS Pty Ltd
From: Cory Magnus [mailto:corym@zango.com]
Sent: Thursday, 4 May 2006 9:42 AM
To: Darren Sommers; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: [Suspected Spam]RE: New 180solutions releases for testing

Darren,

I'm not quite to fatherhood yet, as I just got married about two years ago – however the kid topic seems to be coming up more and more in conversations these days. As they say…the clock is ticking.

As for the status of the CDT letter sent to the FTC, we haven't heard anything from the FTC, so your guess is a good as mine as to what they are doing with it.

I look forward to hearing Jim's thoughts and we can go from there.

Thanks,

Cory
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Wednesday, May 03, 2006 6:08 PM
To: Cory Magnus; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: [Suspected Spam]RE: New 180solutions releases for testing

Yes... clock ticks.

While we will still review your software, if the FTC hasn't resolved this, we are almost in limbo. Its irresponsible of us to make changes while the FTC is considering the CDT submission. From my understanding, much of the CDT complaint goes to installation practices and unethical practices by your distributors.

I recommend you guys seek closure on the FTC issue one way or the other. I suspect that other anti-spyware companies might have a similar position.

Darren Sommers

General Counsel
PC TOOLS Pty Ltd
http://www.pctools.com
From: Cory Magnus
Sent: Thursday, May 04, 2006 9:54 AM
To: 'Darren Sommers'; Simon Clausen; Jim Meem; Peter Mackow
Subject: RE: [Suspected Spam]RE: New 180solutions releases for testing

I absolutely understand your concerns with the CDT's letter. It's important to point out that this was merely a letter that the CDT sent to the FTC, and nothing more than that. It's also important to point out the letter focused on concerns that, if legitimate at all, were from long ago. Since then we have re-messaged all of our users and have made significant changes to our programs to make them even more transparent to the user, in addition to completely restructuring our distribution model so we now work directly with our publishers (more information on the changes to the distribution model).

As you might imagine, as much as we'd like to, we are really unable to "seek closure" with the FTC on this issue due to the fact that the FTC receives thousands of such letters pertaining to thousands of different companies every week. Given that reality, it's impossible to say when / if we will ever hear from the FTC on this issue.

I appreciate your willingness to review our programs and I look forward to hearing your thoughts.

Thanks,

Cory

From: Cory Magnus
To: Darren Sommers;Jim Meem;Simon Clausen;Peter Mackow
Date: 23 June 2006
Gentlemen,

Haven't heard any follow up regarding your testing so thought I'd send you a quick note. Any updates?

From: Jim Meem
To: Cory Magnus
Cc: Darren Sommers;Simon Clausen;Peter Mackow

Date: 23 June 2006
Hi Cory,

We are currently working with the ASC to finalize their best practice guidelines. The ASC guidelines will impact how companies like PC Tools rate software produced by adware companies such as yourselves.

The guidelines are scheduled for release after 15 September. Until these are released we are not intending to review adware applications and others caught by the guidelines as it would be inefficient to make changes now (if any are to be made) and then possibly make another change in 3 months time.

We are however open to reviewing the descriptions of your software (but not the rating) prior to the guidelines being released. I know we did this recently and it should be accurate but if you still feel that there are inaccuracies let me know.

Regards,

Jim Meem
From: Cory Magnus
Sent: Friday, November 03, 2006 11:50 AM
To: 'Simon Clausen'; 'Jim Meem'; 'dsommers@pctools.com'
Subject: Zango Settlement with FTC

Simon, Jim and Darren,

As you may have seen, the FTC's settlement agreement with Zango was announced earlier today and is receiving some publicity. Our CEO, Keith Smith, asked me to reach out to you and others in the scanning application community to convey the communication below.

I know that your team was waiting to hear this announcement before you proceeded with updating your definitions for our programs. I hope that the following is helpful in answering any questions you might have and I certainly welcome further conversation on this topic. As always, please do not hesitate to contact me with comments or concerns.
Thanks.

Cory

Cory Magnus
Senior Manager of Industry Affairs
Zango

To: **Shane Coursen**
From: **Keith L. Smith, CEO, Zango**
Subject: Zango Agreement with Federal Trade Commission Creates Landmark Consumer Protection Practices

While you might have seen news reports (http://www.marketwire.com/mw/release_html_b1?release_id=179774), I wanted to personally let you know that Zango and the Federal Trade Commission (FTC) have reached an important agreement that sets new standards for our industry. I'm also pleased to report that, since January 1, 2006 (the rollout of our S3 program), Zango has met – and in some cases exceeded – the key notice and consent and uninstall standards for consumer protection set forth by the FTC today.

If our outreach with your team over the last two years has shown nothing else, I hope that it has shown how our industry has evolved and how we have been at the forefront of these changes. Notably, we learned a hard, and expensive, lesson that we could not rely on affiliates to enforce our consumer notice and consent policies. Unfortunately, a number of deceptive third parties exploited our system early on, which had a negative impact on consumers. I want you to know that I deeply regret and apologize that this happened.

Long before the FTC began its investigation, Zango recognized that the industry needed a set of guidelines to protect consumers. Over the past several years, we have worked with multiple industry groups to develop best practices, and we continued that process over the past year in cooperation with the FTC. Importantly, we also re-tooled our processes and systems to eliminate third-party software distribution and to enhance security measures. We applaud the FTC's leadership in providing clarity around best practices with this announcement. This is a significant step forward for Zango and our industry – both of which are at a very exciting stage in their evolution.

As we communicated with your team late last year, all Zango and Seekmo users were operating with the S3 version of our program as of January 1, 2006. However, since we were retiring the 180search Assistant program, we did not create an S3 version of the 180search Assistant. Instead, we decided to move existing 180search Assistant users to S3-enhanced Zango or Seekmo programs as fully consensual upgrade opportunities after January 1, 2006 occurred. In light of today's agreement, no software created and installed prior to January 1, 2006 will generate ads. This means, among other things, that all of our users will have agreed to clear notice and consent and uninstall standards as defined by the FTC and be using software created and installed after January 1, 2006.

To provide an independent analysis, the company has engaged with Richard Purcell, CEO of the Corporate Privacy Group, to audit Zango's compliance against each of the FTC's requirements. Purcell is formerly the chief privacy officer at Microsoft and currently is the chairman of the Board of Directors for TRUSTe, the leading online privacy certification organization. He will report his findings within a month.

Millions of consumers and thousands of advertisers, Web publishers and content providers value the services Zango provides. In downloading our software, consumers – 200,000 of them today alone – gain free access to an impressive and growing collection of digital content in return for viewing several targeted ads. We are just at the cusp of further innovation and growth, and we are very excited about the future.

Thank you for working with us over the last couple years. We welcome your feedback and look forward to continued productive conversations.

Sincerely,

Keith---------------------------------
Keith L. Smith
CEO
Zango
From: Cory Magnus [mailto:corym@zango.com]
Sent: Friday, 17 November 2006 6:27 AM
To: Simon Clausen; Jim Meem; Darren Sommers
Subject: RE: Zango Settlement with FTC

Guys,

Curious to hear your feedback as to how this settlement will change our detection levels? As you mentioned to me a few months ago, you were waiting to see the FTC action before proceeding with upgrading the labeling of our programs.

Thanks, I look forward to hearing from you.

Cory
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Thursday, November 16, 2006 4:25 PM
To: Cory Magnus
Cc: Jim Meem; Simon Clausen
Subject: Zango Settlement with FTC

Hi Cory,

Nice to hear from you.

Yes we did read about the FTC settlement. However, as you may appreciate, we now need to review the official documents agreed between yourselves and the FTC to determine what enforceable undertakings you gave to the FTC in return for the settlement. We will only then be in a position to comment once we have undertaken this detailed review and also had the chance to monitor your compliance with those undertakings, together with other usual threat assessment criteria which we use for Spyware Doctor.

Regards,

Darren Sommers

General Counsel
PC TOOLS Pty Ltd
http://www.pctools.com

From: Cory Magnus
To: Darren Sommers;Jim Meem;Simon Clausen
Cc: Kevin Osbourne
Date 18 November 2006
Darren,

Thanks for the note. I certainly understand your need to review the official documents related to the settlement. I have included Kevin Osborn, Zango's Associate General Counsel, who can further assist in discussing the settlement specifics. Also, to provide an independent analysis of our compliance against each of the FTC's requirements, we have engaged with Richard Purcell, CEO of the Corporate Privacy Group. As you may know, Purcell is formerly the chief privacy officer at Microsoft and currently is the chairman of the Board of Directors for TRUSTe.

Thanks Darren, I hope you are doing well and I look forward to further discussion of the settlement specifics.

Cory
From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Wednesday, 3 January 2007 7:19 AM
To: Darren Sommers; Cory Magnus
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC
Importance: High

Mr. Sommers,

Happy new year from Zango!

We have recently completed our efforts to comply with the FTC requirements http://www.ftc.gov/opa/2006/11/zango.htm and have received the summary report of a 3rd party independent audit of that compliance. Per your email below, we are eager to share the audit report with you under a one-way NDA.

We look forward to sharing the report with you confidentially and to jointly moving towards a more accurate representation of our software post-FTC compliance. Please review and complete the attached one-way NDA so that we may counter-execute the document and provide you with the independent audit report.

Best regards,

Gregg Berretta
Director of Industry Affairs
Zango
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Tuesday, January 02, 2007 2:45 PM
To: Gregg Berretta; Cory Magnus
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC

Hi Gregg,

Thanks for your email.

We are happy to see the report but we won't be signing an NDA. The FTC's requirements are on the public record and we don't see why a review of your compliance with those requirements should be kept private. If Zango is serious about consumer protection, we would have thought that you would gladly make public the findings of your review.

Please let me know how you wish to proceed.
Regards,

Darren Sommers

General Counsel
From: Gregg Berretta
Sent: Tuesday, January 02, 2007 4:00 PM
To: 'Darren Sommers'; Cory Magnus
Cc: Jim Meem; Simon Clausen; Kevin Osborn; Ken McGraw
Subject: RE: Zango Settlement with FTC

Darren,

The FTC's requirements are indeed on public record and our on-going compliance with those requirements is mandated by the FTC lest we face further sanctions. We meet (or exceed) all of the FTC's standards regarding, for example, notice and consent, ad labeling, and ease of uninstallation.

Perhaps a better approach would be to detail what has transpired to ensure that Zango is no longer considered "Malware" or "Known Bad" as we are currently (mis)labeled by your application.

We would be happy to schedule a call to discuss the steps taken to reach FTC compliance (without an NDA):

The latest version of our software and future versions will adhere to the standards enumerated at:
http://zango.com/Destination/Corporate/BestPractices.aspx

1. The user is notified in plain language that they are installing our programs on their PC.
2. The user must opt-in (consent) to the download before the install of our software will initiate
3. It is clear to the user that they will be receiving advertisements in exchange for access to free content.
4. The user is presented with our EULA and links to, among other things, our Privacy Policy. A copy of our EULA can be found at: http://zango.com/Destination/Corporate/Eula.aspx. A copy of our Privacy Policy can be found at: http://zango.com/Destination/Corporate/PrivacyPolicy.aspx.
5. Our programs provide a system tray icon from which the user can access program information, customer support, and uninstall instructions
6. Delivered advertisements are labeled as coming from our programs and provide a link to further program information and uninstall instructions

7. Within 72 hours of downloading our programs, users receive a reminder that they have installed our programs, which includes information about how our programs work along with uninstall information.
8. 90 days after install, and every 90 days after that, users are sent an additional reminder that they have our programs, including information as to how the programs work along with uninstall instructions.
9. The user is able to quickly uninstall the application via the Add or Remove Programs function.
10. Ads that are shown are opened in a separate window and do not hinder the user's ability to operate their PC in a normal fashion.
11. Zango programs do not collect information about user web-searches and surfing habits.
12. Our software requires users that download our program be 18 years of age or older, and we do not partner with sites that target younger users.
13. In any instance where we suspect that a partner channel has been compromised, we will provide every user within the compromised channel appropriate messaging. This messaging provides one-click removal of the fraudulently installed software.
14. Our software DOES NOT COLLECT PII, EVER. Zango is an active member of the Online Privacy Alliance, the Network Advertising Initiative, and the International Association of Privacy Professionals.

Please let me know when would be a convenient time to discuss the changes enumerated above. We are -8 GMT in Bellevue, Washington.
Regards,

Gregg Berretta
Director of Industry Affairs
Zango

From: Greg Baretta
To: Darren Sommers;Jinm Meem;Simon Clausen;Cory Magnus;Kevin Osbourne
Date: 5 January 2007
Darren,

Zango will follow a policy of transparency with those scanning application vendors wishing to accurately label our software application. Unfortunately, the scanning industry is fraught with some less-than-reputable "scanners" that invoke false positives to scare uninformed customers into purchasing inferior products. These false positives are generated in a variety of ways, but most commonly by mislabeling our software as a "virus" or as "spyware." Because these labels are false and misleading (among other things), we feel no obligation to continue to make ourselves easily identifiable by these kinds of opportunistic and alarmist companies.

Accordingly, we will be updating our Class ID information from time to time. As described below, we will provide advance notice of the change to legitimate scanning application companies. We will not provide notice to those companies that feel compelled, as a sales or marketing tactic, to ignore reality and continue a campaign of fear mongering against Zango.

Under NDA, and based on properly labeling Zango, the Class IDs we provide to reputable companies will ensure that their scanning detection definitions are always up to date and are able to find all instances of our products. We understand your need to provide protection to your customers, just as you understand our need to be appropriately and accurately labeled.

I would be happy to set up a call to walk you through the user experience with our FTC-compliant software. As needed, I could coordinate a call with Richard Purcell, too. All forthcoming versions of our software will abide by the consent agreement standards. We will also continue to adhere to the Best Practices described at http://zango.com/Destination/Corporate/BestPractices.aspx.

Improper labeling, including but not necessarily limited to the following, will not be tolerated. I include in that category the usage of the disjunctive "or"; it is inaccurate, misleading, and actionable to describe Zango software as, e.g. "a virus, Trojan, OR adware."

Zango is not:

- "Spyware" – Zango does not collect PII and does not have key-loggers or other hallmarks of "Spyware."
- "Virus" – There is no virus contained in our application and our executable, since 2005, is not allowed to be bundled or hidden within third-party applications.
- "Dangerous" – There is nothing dangerous about our application. Users can perform a complete uninstall at any time through the normal Windows Add/Remove function.
- "Security Risk" – There is no risk to a user's security in light of the consent agreement-related changes to our business model. The FTC is empowered to protect consumers and the standards announced in the consent agreement do just that.
- "Harmful Process" – Zango is not a "harmful process" and will not negatively impact a customer's PC any more than the toolbars provided by popular search companies.
- "Potentially Unwanted" – Zango customers are provided plain language opt-in screens and are sent a follow up confirmation within 72 hours.
- "Malware" – Users install Zango to access content for which they otherwise would be charged. Combined with the above changes, we are not Malware.
- "Hijacker" – The Zango solutions do not "hijack" the user's PC. Our software show relevant ads based on keywords.
- "Pest"/"Nuisance"/"Known Bad" – These and other subjective terms ignore that Zango customers perceive a value in exchange for viewing targeted ads. If that value loses its attractiveness, they uninstall our software.
- "Medium-Risk" or "High-Risk" – There is no risk associated with our software that could be qualified beyond Low Risk, and even that is arguable given our policies.

In addition, and given the changes we've implemented, we will not share Class ID information with any scanning application that make suggestions designed to cause undue and unwarranted concern on the part of our customers and potential customers. This includes warnings such as: "Quarantine", "Uninstall", "Block", "Remove", etc.

Proper labeling may include the terms "Adware" or "Desktop Advertising." We understand and respect your obligation to label us in an appropriate manner.

If there are any technical files needed for re-testing and the modification of your classifications of our application, I'm happy to provide them. If you have any questions, I'm happy to speak with you.

I have attached our form NDA to this email and look forward to working with you.

Regards,

Gregg Berretta
Director of Industry Affairs
Zango
From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Tuesday, 30 January 2007 12:48 PM
To: Darren Sommers; Kevin Osborn
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC

Darren,

Zango is serious about consumer protection and I've decided to provide you with the summary from the 3rd party that reviewed our FTC compliance (see attached.)

PC Tools Spyware Doctor product is one of the most egregious offenders in terms of how our software is treated and labeled. Your software is making life very difficult for our mutual customers and we're receiving call volume from customers wanting to know how to get around your products blocks on ours.

Please let me know what needs to happen to advance this discussion.

Regards,

Gregg Berretta
Director of Industry Affairs
From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Wednesday, January 31, 2007 8:40 PM
To: Gregg Berretta; Kevin Osborn
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC

Dear Gregg,

We take offence to being called a "egregious offender" and dispute that we are making life difficult for "mutual customers". We also question that you are receiving "call volume" caused by Spyware Doctor. If this is the case, how many calls to date? How many per day? What is your standard call script when end users ask about Spyware Doctor?

If mutual customers want to execute Zango software they are free to ignore any scan results presented by Spyware Doctor. Also, the new version of Spyware Doctor (currently in beta - you can get it here - http://www.pctools.com/spyware-doctor/beta/) has a global whitelist so if end users want to exclude Zango or your other products from Spyware Doctor, they will be able to do this. Note, external software cannot modify the whitelist but we would be happy for you to instruct your end users on your website as to how to make use of our whitelist facility.

We have reviewed the attachment and note that your consultant has the view that you are complying with FTC requirements. However, we also note that other competent and knowledgable third parties believe that you are not complying with the FTC settlement - see for example Ben Endleman's report on Zango - http://www.benedelman.org/news/112006-1.html.

From where PC Tools sits in this debate, our mission is to offer end users protection against spyware, adware and other malicious software ("malware"). End users use our product because they trust our judgement on what software constitutes malware. The malware that we detect for end users is determined by a number of factors including:
(1) our own analysis of the software
(2) available third party analysis of the software
(3) other evidence of software behaviour

Whether and how we rate Zango will depend on the above factors. In your case the FTC settlement terms are only one factor we will take into account. We will shortly commence our analysis and advise on our findings. If you wish to pass on relevant information and/or links to the latest versions of your software, then this would be helpful, however we will not be signing an NDA.

We will be in touch soon.

Regards,

Darren Sommers
General Counsel

From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Friday, 2 February 2007 11:58 AM
To: Darren Sommers; Kevin Osborn
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC

Darren,

You may have missed Ben Edelman's additional comments (your link is from his November report. My link is from his nearly hidden December addendum.)

http://www.benedelman.org/spyware/zango-settlement-addlcomments-120306.p
df

To sum it up, Ben essentially states that he believes Zango IS compliant with the FTC, although he changes his tactics to attacking the FTC.

PC-Tools made it abundantly clear to Zango that the removal of such terms as "Malware" and "Known Bad" and recommendations to "Toss" our software would be reviewed once there was evidence we were in compliance with the FTC order. I believe between my source, Richard Purcell, and your source, Ben Edelman, you now have sufficient FTC compliance evidence to review our software and make the proper labeling call.

I will be attending the RSA conference next week and would be interested in meeting someone from PC Tools in person, if possible. A 30 minute discussion could clear up some of the confusion that seems to exist.

Regards,
Gregg Berretta
Director of Industry Affairs

From: Darren Sommers [mailto:dsommers@pctools.com]
Sent: Thu 2/1/2007 8:05 PM
To: Gregg Berretta; Kevin Osborn
Cc: Jim Meem; Simon Clausen
Subject: RE: Zango Settlement with FTC

Hi Gregg,

I did read Ben's second report and it clearly states that he has come across "new installations" which do not fall within the FTC settlement. He does not retract his comments on previous evidence he has found of Zango breaching the FTC settlement. He is saying that he believes that the "new installations" he has found should be attacked by the FTC but have not been. He is not saying that he "essentially states that he believes Zango IS compliant with the FTC".

We are indeed reviewing your software to determine whether it should be detected and if so how it should be described. As stated in my email yesterday, the FTC settlement and your's and Ben Endleman's views are only some of the evidence we will take into account. The FTC does not determine what software we detect, its views are only one factor we take into account. As stated yesterday, we evaluate a number of different things.

We can't at this time commit to a timeframe for review of your software but we are hoping it will commence in a few weeks time. Our Malware team has a lot on their plate and your software review needs to be scheduled along with all their other tasks.

With RSA, I do believe a few people from our team will be there however I don't believe any of our Malware guys will be in attendance so not sure if chatting to them at the conference will assist. However, of course please feel free to say hello.

Regards,

Darren Sommers
General Counsel

From: Greg Baretta

To: Darren Sommers;Kevin Osborn
Cc: Jim Meem;Simon Clausen
Date: 2 February 2007-05-17Darren,

We appreciate your expeditious review.

Obviously, we hope for a mutually satisfying outcome.

Cheers,

Gregg Berretta

From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Thu 3/22/2007 4:42 AM
To: Jim Meem; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn
Subject: PC-Tools - Zango - Seekmo - Hotbar

Darren,

The ASC guidelines are out and Zango products (Zango, Seekmo, Hotbar) meet or exceed all risk factors.

The FTC settlement is final and all CDT and other issues have been addressed.

We have performed a "deep dive" review of Spyware Doctor's treatment of our products and found the following:

1. Zango product is blocked in Guard mode and is incorrectly listed as "Harmful." Further, potential customers are scared in Scan mode by the statement that Zango contains "1,466 infections"
2. Seekmo (see PPT attached for the full extent of potentially criminal behavior - the modification of our website and that of our publishers) product is blocked in Guard mode and is listed as having "484 infections"
3. Hotbar is blocked in Guard mode and is listed as having a terrifying "2,061 infections."

We have been extremely patient in waiting for the FTC consent order to finalize. The FTC held that Zango behavior prior to 1/1/06 (yes, that says 2006!) was the cause of the FTC complaint. The various comments to the FTC have been addressed by the FTC directly and there is no longer any reason to delay the repair of your incorrect and misleading labeling and treatment of our products.

We have been extremely patient in waiting for the ASC Guidelines to finalize. The ASC Guidelines make clear that the Best Practices document will serve as aspirational in nature and that objective standards should be gleaned from the ASC document in July 2006 detailing Risk Factors. Zango products have been in compliance with the various risk factors from the ASC since before that document was released.

I hope that you've appreciated our patience and that we can work together to ensure that PC-Tools customers are not deceived by incorrect and misleading descriptions of our Adware solutions. We understand that customers expect PC-Tools to protect them from Spyware. We are also aware that the term "Spyware" has been thrown around quite a bit. At this time, however, we are more than prepared to detail the efforts we've taken to ensure that we collect no personally identifiable information, do not cause "harmful" activities to take place on a users PC, and the extent to which we've gone to adhere to the high standards set by ourselves, the FTC, and the ASC.

Priority one is changing the behavior associated with the attached PowerPoint. Please let us know if there is any reason this can not be addressed BEFORE THE END OF THIS WEEK.

Priority two is ensuring that our applications are properly labeled and that customers retain some choice as to whether or not they wish to become Zango customers. The mere installation of Spyware Doctor in no way means de facto that a customer wishes to forfeit the ability to choose whether they wish to become our customer. Please let me know if there is any reason this behavior and the incorrect labeling of our products can't be resolved by the end of this month.

As always, we are prepared to set up a call, either with engineers for a technical discussion, or lawyers for a legal discussion. Feel free to call me at the number below if you have ANY questions at all.

Because of the adult nature of our Seekmo product, the attached PPT has adult content inside. I chose not to modify the screenshots in any way so that there is no question as to the behavior of your products on ours.

Regards,
Gregg Berretta
Director of Industry Affairs

From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Fri 3/23/2007 12:54 AM
To: Gregg Berretta; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Gregg,

I replied to this earlier but due to our relocation (I guess) it ended up not going out and only partially saved as a draft. I have tried to reconstruct my reply below:

Hi Gregg,

Unfortunately your email arrived at a time when we are physically relocating the Malware Research Centre to a different floor in the building. I did start looking at Seekmo as soon as I saw your email, and both the QA Manager and I could see that you have made substantial changes. The demo explaining its like watching ads that pay for TV programs is good. Before proceeding further I wanted the analyst who spent the most time assessing 180 applications to be involved, and this analyst is now working in Development. I did get him to come over this afternoon but by that time the malware network was being relocated and our test PC's were packed. No matter, I decided to use my normal "corporate" PC to explore the Seekmo site in detail. We went through the demo again, your EULA, your privacy policy, and finally went to install Seekmo Search Assistant. This is all with Spyware Doctor disabled, obviously. But at that point Norton Internet Security did exactly the same as what you are complaining to us about, blocked the install, listed several programs as malicious, etc. all of which I'm sure is not news to you.

We will test your software starting with Seekmo Monday (Sunday your time) after the movers finish relocating us over the weekend. That way we can install Seekmo on a test PC without any anti-malware. From what I've seen so far I like the way you seem (so far) to have implemented opt-in.

Regards,
Jim Meem, Manager
Malware Research Centre
From Greg Baretta
To: Jim Meem;Darren Sommers;Simon Clausen;Peter Mackow
Cc: Kevin Osborn
Date: 26 March 2007

Jim,

Message received. Thanks for acknowledging the extensive work we've put in to meeting these requirements.

I learned very quickly that no one wants to hear our company say "we've changed." They want to see it in action.

We are trying to do several things at once:
1. Keep customers happy. We better offer customers good value in exchange for those ads or they're going to leave us and not come back.
2. Keep advertisers happy. The Attorney General of New York hauled several advertisers in for "discussions" as to why they didn't know how their online ads were being distributed. Zango now provides advertisers with a "safe harbor" so they avoid costly legal action and bad publicity.
3. Keep you guys happy. We support the efforts by the ASC, TRUSTe, FTC, etc. If "Adware" is completely above board, as we are now, scanning/firewall vendors can focus on the truly nasty stuff (e.g. phishing, keylogging, virii, trojans, bots, etc.)and we can move forward with our product offering. Trust me when I tell you that I'd rather have our engineers working on cool new features than the default action on an installations "Next" button.

We've done a ton of work and we'll be severely punished (possibly shut down) by the FTC if we don't adhere to the consent order. Now, the job is yours to review what we've done.

I look forward to your review and any suggestions. Good luck with the move.

Regards,
Gregg Berretta
Zango, Inc.

From Greg Baretta
To: Jim Meem;Darren Sommers;Simon Clausen;Peter Mackow
Cc: Kevin Osborn

Date: 27 March 2007

Jim,

I'm hopeful the move went well and your tests of Seekmo show substantial improvement sufficient to warrant a change in the current treatment of our various applications.

We're getting positive feedback from nearly all of the top scanning application providers.

Thanks,

Gregg Berretta
Director of Industry Affairs

From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Monday, March 26, 2007 11:25 PM
To: Gregg Berretta; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Gregg,

Monday was a wipeout thanks to moving and other problems unrelated to 180. The analyst most experienced with 180 and I have now installed Seekmo Toolbar. The only thing I questioned during the install is there was a reference to Zango Search Assistant and Toolbar which I saved but it was not important, just something I think is a remnant from the past.

But now that we are running Seekmo we have a few questions.

First we were using Google to search for a car manufacturer, Holden (the local GM). Before we actually got to the site Seekmo appeared to divert us to a screen for MyShopping.com.au which offered us all sorts of things but none relating to Holden or cars. We got back on track and for a while things seemed OK. Then we googled "Adware" and went to one of the results. This time we got a popup from "Registry Helper" which claimed we had all kinds of registry problems which is a dubious claim as this PC is clean and gets scanned a lot. The problem, apart from this "Registry Helper" possibly being a rogue application which we won't get sidetrack with now, is that the popup was a full screen so it covered the results we wanted to see, We had to close the window then we looked at another Google result for the "Adware" search and this time we got a different half-screen popup from Windows Registry Repair Pro which also looks to be another rogue application.

While I was typing this the analyst went back to "Registry Helper" and ran "click here to check your computer's registry". Underneath it says "Simulation, not actual scan". Actually that is text for a simulation covered by the "click here" window. Of course when you do click for a check what happens is it claims to find a bunch of invalid keys which we recognized as invented so by this point we were convinced this "Registry Helper" is a scam. Then we ran the other "Registry Repair Pro" which told us the same story, we had invalid application paths, empty registry folders and autorun programs invalid, all of which it could fix if we only downloaded a free trial or paid $9.99 special price.

We did see your 'This ad served by Seekmo" on a bottom title bar. We tried the link explaining Seekmo and that worked.

Next we Googled for "Mona Vale" which a nearby suburb. We did this partly because we thought this would leave Seekmo without a clue for an ad. But no, under the Google toolbar appeared a small banner for ring tones and we clicked once on that. I stress once because in fact we got two ads in response, first a full screen ad for the rightone with no "Seekmo" title on the bottom then seconds later we got a left half screen being the same ad but this has a bottom title (when maximized) "Served by Seekmo".

It looks like the first full screen ad was a redirection from the Google results for "Mona Vale" while the second was a popup. When we closed these two screens we had lost our Google search results.

We had to stop because of something else, but what bothers me is the full screen ad for Registry Helper (which we saw subsequently searching for things other than Adware) which does not have a title with "Served by Seekmo" and covers the screen you are trying to read.

Any comments at this stage?

Jim Meem, Manager
Malware Research Centre
From Greg Baretta
To: Jim Meem;Darren Sommers;Simon Clausen;Peter Mackow
Cc: Kevin Osborn
Date: 28 March 2007

Every ad we serve is labeled. The only two instances when I've seen an ad pop without proper labeling are 1) where the user is viewing our solution on a virtual machine with a smaller screen real estate. In this situation, the ad covers entirely too much of the reduced screen size. The labeling is still there but is impossible to see. 2) the ad is popped from the website that the user went to prior to our ad popping. In this situation, a web popup (as opposed to a Seekmo popup) is generated. In the case of an ad appearing without a label, when run outside a VM, please track the serving entity of the ad and you should see that it did not originate from either our application or our server. The FTC and two independent audit groups have both verified the ad labeling and found it to be excellent.

Please retest the solution outside a VM, if that's how you tested it initially. If you get any more unlabeled ads, we will get a support person to walk you through a log test so we can determine what's happened. We have over 260 employees using Zango and Seekmo daily and none of them have seen an unlabeled ad outside a VM in over 6 months. Because of the FTC order, we take this matter very seriously.

A rare occurrence is when a properly labeled ad pops from Seekmo, and the user closes it, only to have an exit pop from the landing page that Seekmo initially pulled up. We go to great lengths to keep this from happening for several reasons. The first reason is that it violates our terms. The second is that we receive no revenue from the exit pop. The third, and most important, is that it annoys our users. Annoyed users, not surprisingly, uninstall our software solution at a much higher rate than those that are satisfied with the value proposition.

As to ad relevance, we're very strong in the US and getting stronger with keyword lookup outside the US. You shouldn't have seen a completely non-relevant ad because, again, it's annoying. As we continue to grow outside the US, our keywords will have more bidders and the ads will become much more relevant to web surfers.

As to the Registry ad, you should know that we patrol several things on a daily basis, some for legal reasons, some for user satisfaction reasons, etc. In the US, we're on the lookout for gambling ads. Those can't be shown. We also work diligently to eliminate ads that falsely claim that "you've won" something. The Registry Cleaner ad is one that, because of my position within the company and the type of surfing I do, see very often. We have reviewed the ad and the product and found it to be reputable enough to run the ad but we monitor it closely. We will not allow ads that look like system errors needing repair, etc.

In summary, it is a great day at Zango when the most severe criticism is the nature and quality of the advertisers in our network. We believe that with the FTC settlement and our adherence to ASC and (soon) TRUSTe guidelines, we'll be able to attract larger, better advertisers that will provide more relevant ads. This, in turn, allows us to pay more for content developers, and will provide a better value proposition to our customers. My work with companies like PC Tools and your competitors is essential in reassuring users what I believe you've discovered: Zango will earn each customer with the highest level of user satisfaction and the safest PC experience possible.

Let me know if you find anything else. If not, I would be thrilled to either be delisted from your definition files quietly or we will be happy to generate an extreme amount of fanfare at the news of a delisting and perhaps offer your solution to our millions of users that need protection from the truly nasty applications in the wild.

Best regards,

Gregg Berretta
Director of Industry Affairs
From Greg Baretta
To: Jim Meem;Darren Sommers;Simon Clausen;Peter Mackow
Cc: Kevin Osborn
Date: 28 March 2007

Jim,

I forgot to mention in my earlier response that since PC Tools has a Registry Mechanic solution, it might make sense for us to think about introducing your marketing team to our ad services group. Zango/Seekmo customers deserve to have the best tools available on the market and I'm a fan of your RM solution.

You would need to verify that our Zango/Seekmo/Hotbar software meets all the standards of your Spyware Doctor program, obviously. Given that we are not spyware (no key logging, no collection of PII, no PC vulnerabilities created, adherence to the ASC Risk Factors, etc.) we would like very much to see your Registry Mechanic solution offered to our millions of users.

We believe the only adware solutions our customers should ever see are those that adhere to the high standards that we've set for the industry.

Regards,

Gregg Berretta
Director of Industry Affairs
From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Tuesday, March 27, 2007 9:10 PM
To: Gregg Berretta; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Gregg,

You sent this email and another ten minutes later which I leave to Marketing to respond to as I run a technical department and have no input as to where or how we advertise.

This is the third day we've run Seekmo and today I tried to act like a normal user so I've used it intermittently for about five hours. We do not (at least not for this kind of testing) use VMWare, by the way, because some malware tests for it and behaves differently if it detects its presence. All the Seekmo tests are on real PC's just running some TCP/IP filters so we can monitor the traffic between your app and whatever it contacts.

What it comes down to is when I search for something like "registry cleaner" and I choose this example as I think you would get the same results regardless of where you run it, and say I search on Google, get a list of vendors and then click on one, at that point I get a full screen popup with the Registry Helper ad. Now lets just assume Registry Helper is squeaky clean because its irrelevant to this discussion whether they are or not. My problem is that I was going say to look at Registry Mechanic and in its place I have the data for Registry Helper. Yes I admit there is the bottom Title bar with "served by Seekmo" and for advanced users yes I can see on the task bar there is a new browser window open. But I think this cuts to the heart of the problem--as a user I thought I would see A and in its place I see B which I may go ahead and purchase. Then after I close that window, having spent my money, I find the window for A which I realize was what I intended to buy so I feel screwed, sucked in, manipulated by adware.

OK, so realistically what can 180 do about it? For a start, this would never be a problem (in my view) for a partial screen popup because the user can clearly see two windows so they could work out there is a choice. And if they look at both and end up buying the one served by Seekmo then you have earned whatever you get on the sale because you positioned B as an alternative to A. What I'm objecting to is where you appear to substitute B or A so the user buys B thinking it is A.

Is it practical to pop an opt-in message like "Would you like to see an alternative choice?" before popping the full screen for B? I think that meets all the control and consent expectations the ASC laid out in Best Practices and I was one of the authors albeit a minor player.

Before I rattle on, does this make sense to you?

Jim Meem, Manager
Malware Research Centre
From Greg Baretta
To: Jim Meem;Darren Sommers;Simon Clausen;Peter Mackow
Cc: Kevin Osborn
Date: 29 March 2007

Jim,

What you're saying may make sense relative to an optimal user experience. As to a "best practices" experience, unfortunately, this is not the case. The power of our tool is that it provides a landing page for potential customers rather than an advertisement. Advertisers like this approach and we find that it helps to eliminate many of the sleazier ad attempts such as faux PC warnings, and other nonsense. If the users were given an option of selecting another product without knowing what the offer/opportunity is, they would have the ability to avoid all presentation of advertisements and would effectively be cheating us out of the content we make available. Further, our goal is not to cover up the underlying web page. In my experience, it remains fairly visible to the user albeit underneath the most recent page.

As for feeling cheated, I disagree with your assessment. First, if we don't provide exactly what the customer wants, they will close the window and possibly uninstall our software. If we do provide exactly what they want, I'm not sure why they would be so upset. Let me make an analogy: I put in Registry Mechanic into my Google toolbar. I wind up with 30 paid Google adwords for registry software and the actual product I want is listed either on the bottom of the page or on the next page. This is simply a function of the other registry solution vendors "bidding higher" for placement on the search engine. If I choose a registry product that is inferior to Registry Mechanic, then I might be very disappointed. Is this something that Google should address in order to ensure that they provide the customer with exactly the product they want?

On another, more urgent note, I have not seen any update in the way PC Tools is handling our Seekmo website and Seekmo publisher partners. This is the most urgent issue facing us and needs to be resolved before the end of the week. We can not afford to lose another weekend of revenue on this issue. Our research team believes that the problem stems from the Kaspersky AV engine that you might be using in your latest version of Spyware Doctor. We have worked with Kaspersky to resolve the Seekmo website defacement but did not realize that it would reappear in OEM versions of the product. This is causing great pain amongst our management and our publishers. Kaspersky admitted that they made a mistake in blocking our Seekmo downloads or content download links and have worked quickly to resolve the issue. Now, we need similar reassurances from PC Tools that this matter will be dealt with immediately.

Imagine if a group, even say a small group of Moscow hackers, defaced the PC Tools website such that it was impossible to download any of the PC Tools software. Can you imagine the outrage? How fast before law enforcement would be called into the matter to investigate? We're in a similar situation relative to the impact this is having on us and on over 50 of our publishers. Many of them are calling on us to stand behind them in this issue as it impacts their very livelihood.

While I appreciate the time you and I are spending discussing the ways to improve the experience of our Seekmo product, what should be clear is that our software is no more harmful (or in need of website defacement) than the TRUSTe certified applications from Vomba (formerly IST) or WhenU.

PLEASE PROVIDE REASSURANCES THAT YOU WILL RESOLVE AT LEAST THIS URGENT MATTER BY THE END OF THE WEEK.

If you need anything from Zango, call me at the number below. If you need an English speaking contact at Kaspersky, please call Shane Coursen at: 781 503-1800.

Gregg Berretta
Director of Industry Affairs
From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Wed 3/28/2007 11:48 PM
To: Gregg Berretta; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Gregg,

We have concluded Seekmo is not malicious. We're still weighing up how seriously to take the full screen replacement situation, but its certainly not as bad as things we saw early in 2005. We have removed the block to your URL www.seekmo.com <http://www.seekmo.com/> from the database in test right now which will go live within an hour, so as you read this those SD customers who run Smart Update will not get a block on your website. We will change the risk for the Seekmo application but that is more complicated because currently we detect Seekmo as (1) Seekmo components (2) Zango components which obviously were reused in Seekmo (3) 180 Common Components and (4) Hotbar components, mostly keys.
It may be we will have to review Zango and Hotbar before we can sort this out correctly.

Jim

From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Friday, March 30, 2007 12:30 AM
To: Jim Meem; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Jim,

Thanks for quickly removing the block on our seekmo.com address. We look forward to seeing the lowered threat ranking on our various products. A great deal of work has gone into both the changes you've seen as well as the revamping of our partner and distribution structures.

I would appreciate it greatly if you could complete the assessment of Zango and Hotbar as both of these applications are set up to provide the same high standards for informed consent and behavior as Seekmo.
Zango and Seekmo are nearly identical. You'll be hard pressed to find any relevant differences. As you may have surmised, the Seekmo product allows access to some adult content while Zango does not.

The Hotbar product exists as both a paid product (ad free) and as an ad supported product for those that do not wish to pay.

We appreciate your efforts to defend against the various threats found on the internet and to report those threats accurately to your customers.

As always, if there is anything you need to make your research of our products more expeditious, please let me know.

Regards,

Gregg Berretta
Zango, Inc.

From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Sunday, April 01, 2007 8:44 PM
To: Gregg Berretta; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Gregg,

I was testing the Seekmo Search Assistant unistaller. It does work as described from Control Panel, Add/Remove Programs, but it does not completely uninstall Seekmo as claimed. It does remove the files but it leaves the following registry keys:
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Internet Explorer\Toolbar\WebBrowser\{5CBE2611-C31B-401F-89BC-4CBB25E853D7}
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5CBE2611-C31B-401F-89BC-4CBB25E853D7}\iexplore\Count
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5CBE2611-C31B-401F-89BC-4CBB25E853D7}\iexplore\Flags
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5CBE2611-

C31B-401F-89BC-4CBB25E853D7}\iexplore\Time
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5CBE2611-C31B-401F-89BC-4CBB25E853D7}\iexplore\Type
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5929CD6E-2062-44A4-B2C5-2C7E78FBAB38}\iexplore\Count
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5929CD6E-2062-44A4-B2C5-2C7E78FBAB38}\iexplore\Flags
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5929CD6E-2062-44A4-B2C5-2C7E78FBAB38}\iexplore\Time
HKEY_USERS\S-1-5-21-484763869-1078081533-725345543-500\Software\Microsoft\Windows\CurrentVersion\Ext\Stats\{5929CD6E-2062-44A4-B2C5-2C7E78FBAB38}\iexplore\Type

This is not a big deal and the serial for the particular user will vary from PC to PC, but I think your developers simply overlooked these (basically only three) keys and it would be easy to tidy this up.

I will now, interruptions willing, proceed to test Zango and Hotbar.

Jim
From: Greg Baretta
To: Jim Meem
Dated: 3 April 2007-05-17 Jim,

I'm currently waiting for a response from our lead client engineer on this product. If memory serves, we're in a bit of a bind on these particular keys.

- they are generated by Microsoft, not Zango/Seekmo
- we have the ability to remove them with our uninstallation but may receive questions from people as to why we're "tampering" with MSFT generated registry keys

My goal is to ensure that I have the correct issue and provide you with the response as soon as possible.

Thanks again for your analysis.

Regards,

Gregg Berretta
Director of Industry Affairs
From: Greg Baretta
To: Jim Mee,
Date: 8 May 2007

Jim,

We'll be coming out with a new version of Zango, Seekmo, and Hotbar in the next two months. I'd like to have you take one more look at the new versions because we've gone out of our way to remove the "legacy" 180SA and other vestiges of the past. There will be a new ClassID that I'll provide you on these versions prior to testing.

Thanks for your efforts on our behalf.

Regards,

Gregg Berretta
Director of Industry Affairs
From: Jim Meem
To: Greg Baretta
Date: 8 May 2007

Hi Gregg,

I've gotten bogged down with other problems so have not finished with current review. Will the product names change or will these simply replace current versions?

Jim
From: Gregg Berretta [mailto:gberretta@zango.com]
Sent: Saturday, 12 May 2007 9:12 AM
To: Jim Meem; Darren Sommers; Simon Clausen; Peter Mackow
Cc: Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar
Importance: High

Jim,
Congratulations on replacing Lavasoft as part of the Google Pack bundle. I have spent the better part of the day using Spyware Doctor ver. 5.0.0.169 (Database 5.07280) in conjunction with our Zango software. Unfortunately, we have encountered some extremely serious issues that require immediate attention.

My email will be followed up by a more thorough assessment from our Tel Aviv QA lab as soon as possible.

Because of the time zone differences between our Bellevue, WA offices and yours in Australia, please attempt to install Zango by clicking on any of the content available on www.zango.com <http://www.zango.com/> . Then, please install the above referenced Spyware Doctor ("SD") version. I believe you will find the experience to be incomprehensibly bad.

The first thing that SD did upon loading was to let me know that it had removed two "infections." I was given no opportunity to determine what the "infections" were and whether or not I wished to retain them. Further, it was difficult (and too late) to find the log showing which two "infections" were removed.

I recorded over 75 "toaster" pop-ups from SD within the first 45 minutes. There were so many toasters that it was nearly impossible to access the SD icon in the system tray. The toasters piled higher and higher on the right side of my PC screen until I could see nothing but "pop-ups" from PC-Tools. None of the toasters gave me any opportunity to "Allow" or "Ignore."

I was able to view Zango content without seeing ads in violation of our agreement between ourselves and our customers.

In some cases, the Zango toolbar (BHO) became a non-functioning blank space. Oddly, the Google toolbar was not impeded in any way.

In the interest of reaching a quick resolution on this matter, I strongly request that you temporarily remove any reference to our Zango, Hotbar, or legacy 180solutions files from your database. By running both our software and yours, you will very quickly generate a massive log of which files need to be removed.

Following that stop-gap measure, I suggest we schedule a call or a face to face meeting to discuss why our software is being treated as "Spyware" or an "infection." Your email below indicates that you are aware that our Seekmo product (based on Zango code) has only a small issue remaining in terms of "registry residue." We fully understand the scenario mentioned and are happy to discuss the "residue" issue with you.

There is nothing further to indicate that our application should be damaged by Spyware Doctor or that our mutual customers should be allowed to enjoy Zango screensavers, videos, and other content without providing Zango with the benefit of the bargain (namely, the ability to display targeted advertisements.)

I look forward to resolving this with PC-Tools. I'm certain that you have your customers' interests at heart and that the experience I had today is one that no one (other than your lab and ours) should have to endure.

Regards,
Gregg Berretta
Director of Industry Affairs

From: Jim Meem [mailto:jmeem@pctools.com]
Sent: Sun 5/13/2007 11:13 PM
To: Gregg Berretta; Michael Helmer; Simon Clausen; Peter Mackow
Cc: Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Hi Greg,

We received your email Saturday because of the time difference. Darren is no longer with PC Tools and is replaced by Michael Helmer.

I tried to duplicate your problem but I was running Norton as well as SD and Norton gets just as upset when you try to install Seekmo as SD, and as Norton hooks first (at least on this PC) SD never got a chance to complain. I'm setting up a different PC and I'm planning to see how many components I need to lower the risk on to fix this problem, because based on the last look I took it will involve at least Seekmo, Zango, Hotbar and some Common Components. I am not going to lower any risks on legacy 180solutions files unless we can establish that their behavior has been changed as it has with Seekmo and Zango. Just as you are paid to ask (and why not ask?), so my people and I are paid to set risk on behavior we observe and so far as I know those legacy programs are still "dodgy" to be polite.

So this is rather a messy situation as Seekmo uses files that used to be unique to Zango, and both use Hotbar, but I hope to get it resolved in the next day or two.

Jim

From: Greg Baretta
To: Jim Meem;Michael Helmer;Simon Clausen;Peter Mackow
Cc: : Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Date: Monday 14 May 2007
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Jim,

Thanks for the response. I realized it was the weekend there but wanted to get an email out to you as quickly as we knew there was a problem.

The goal of a call or a face to face, if such can be arranged, is to explain two things that I think will help resolve the confusion. I'd still like to set up a meeting but because of the urgency of what we're seeing, I don't want to delay progress.

First, the legacy ("dodgy") piece that you're seeing is only a harmless remnant of the 180SearchAssistant. The reason 180SA gets scanned in our current 8.4 (Seekmo/Zango) client code is because a few of the games and applications we offered pre-2006 had a hard-coded ClassID. By allowing the client (not our server) to "listen" for that hard-coded ClassID (which corresponds to the 180SA), those legacy games and applications can still function. This was simply an effort at backwards compatibility.

Second, our independent 3rd party auditors, the United States Federal Trade Commission (FTC), Zango engineers, and I can and will be happy to assure you that the old 180SA application doesn't function any longer. In part because of the FTC settlement, our servers are prohibited from responding to 180SA calls. Given that the 180SA product has been off the market for nearly two years, we rarely, if ever, see an inbound call attempt from that application. There is zero protection afforded PC-Tools customers as a result of detecting this legacy 180SA ClassID.

As soon as I get into the office (it's midnight in Seattle) I'll determine whether I can send you the video capture of Spyware Doctor's behavior. As to the Norton detection, it may be specific to Seekmo because when I tested with Zango, it flagged the "infection" but made it clear that "removal" was not possible in the free version. I'll have our team test the free Norton from Google Pack to see whether there is a different behavior relative to Seekmo.

Keep in mind, the issue here is not whether we're called bad names or improperly labeled. This is much more serious. PC-Tools customers, without any options available to them, are breaking our Zango program and, in many cases, gaining free, unfettered (except for a multitude of SD's toasters) access to our content. This is causing us substantial, irreparable harm.

We must find a way to temporarily halt the behavior our mutual customers are seeing until a satisfactory resolution can be reached.

Thank you for treating this with the urgency that it deserves.

Regards,

Gregg Berretta
Director Industry Affairs
Zango

www.zango.com

From: Greg Baretta
To: Jim Meem;Michael Helmer;Simon Clausen;Peter Mackow
Cc: : Kevin Osborn; Meir Uziel; Rachel Shafir; Ken McGraw; Kevin Murphey
Date: Tuesday 15 May 2007
Subject: RE: PC-Tools - Zango - Seekmo - Hotbar

Simon,

Attached, please find the independent 3rd party review of Zango's compliance with the consent order from the United States Federal Trade Commission (www.ftc.gov/os/caselist/0523130/index.shtm).

The report and the FTC settlement agreement strongly suggest that PC-Tools immediately remove or disable all of the Zango, Seekmo, Hotbar, and180solutions definitions and detections from any PC-Tools products - especially the version included with the "Google Pack."

Any Zango customer that installs the "Google Pack" will have the existing, consensual installation of the Zango software destroyed or disabled. At no point is a PC-Tools customer given an opportunity to Ignore, Allow, or otherwise permit the Zango software to run simultaneously with Spyware Doctor. Further, no customer has the ability to install the Zango software after installing the PC-Tools product. There is no valid reason why the Zango software products or our current or potential customers should be treated this way by PC-Tools.

Mr. Meem has reviewed the software and has already determined that the product is not harmful to a user's PC security or personal information.

Given the destructive nature of the PC-Tools product, Zango can not allow this to continue. We will be happy to engage in commercial discussions once these definitions are removed from the PC-Tools products.

Regards,

Gregg Berretta
Director of Industry Affairs